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MAR 04 2010

OFFICE OF PETITIONS

In re Patent No. 7,572,770 : DECISION ON REQUEST
Marc Donath : FOR
Issue Date: August 11, 2009 : RECONSIDERATION OF
Application No. 10/517,450 : PATENT TERM ADJUSTMENT
Filed: September 1, 2005 : and
Atty Docket No.4614-0160PUS1 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 13, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred seventeen (317) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred seventy-three (573) days¹ is **GRANTED** to the extent indicated herein.

¹ The "B" delay period is 600 days, not 344 days. Patentee calculated this period based on the date this application fulfilled the requirements of 35 U.S.C. 371. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is June 20, 2002. As the requirements for early commencement were not met, the national stage commenced in this application on December 20, 2004. Thus, "B" delay is 600 days, counting the number of days beginning on December 21, 2007 and ending on August 11, 2009, the date of issuance. See 1.703(b).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred seventy-three (573) days.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,572,770 B2

DATED : Aug. 11, 2009

INVENTOR(S) : Donath

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (219) days

Delete the phrase "by 219 days" and insert – by 573 days--